HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.7021 of 1999

Dated 19th day of June, 2007

Between:

Mantri Narsinga Rao
and three others .. Petitioners

And

The Govt. of A.P.,
rep. by its Additional Secretary,
Industries and Commerce (IV) Dept.
Secretariat, Hyderabad
and four others .. Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare the Notification dated 30.10.1985 issued by the 1st respondent under Section 4(1) of the Land Acquisition Act, 1894 (for brevity "the Act") proposing to acquire the lands of an extent of Ac.1.32½ in S.Nos.129/4 and 129/5 situated in Peddakantyada village for the purpose of industrial development and a Draft Declaration which was published in the news paper on 14.3.1999, as arbitrary and illegal.

The brief facts of the case are that the Government issued a Notification dated 30.10.1985 under Section 4(1) of the Act proposing to acquire the lands of the petitioners along with some other lands for development of an industrial area specially for construction of a Steel Plant and a Draft Declaration under Section 6 of the Act was also published on 22.11.1986, and thereafter, an award was passed on 21.11.1988. The petitioners, on an earlier occasion, filed W.P.No.16610 of 1988 and this Court, while admitting the writ petition, granted interim stay of all further proceedings by an order 4.11.1988, and on 25.7.1996, the writ petition was partly allowed quashing the Declaration issued under Section 6 of the Act. Further, this Court directed the respondents to hold an enquiry as provided under Section 5(A) of the Act. Initially, the petitioners were granted six weeks' time to file their objections, thereafter, this Court, extended the time by three more weeks and accordingly, the objections were furnished on 27.11.1997. Now, the petitioners' grievance is that the respondents negatived their objections and got published a Draft Declaration on 14.3.1999, which was not within a period of one year as contemplated under Proviso (ii) to Section 6 of the Act.

According to the learned counsel for the petitioners, evidently the objections were filed on 27.11.1997 and hence, the period of one year as contemplated under the proviso (ii) to Section 6 of the Act started from 27.11.1997 and the Draft Declaration should have been published on or before 26.11.1998, but it was published only on 14.3.1999 beyond the period of one year, and thus it is liable to be quashed.

The 4th respondent has filed a counter affidavit stating that initially the Draft Declaration was published on 22.11.1986, and hence such declaration was within time.

Heard the learned counsel for both the parties and perused the material placed on record.

I am unable to agree to the contention put forth by the learned counsel for the 4th respondent. The Draft Declaration dated 22.11.1986 was quashed by this Court and for all purposes it is not in existence in the eye of the law. In fact, in the order dated 25.7.1996 passed in W.P.No.16610 of 1998, this Court clearly directed the respondents to hold an enquiry as contemplated under Section 5(A) of the Act and thereafter issue a Draft Declaration. In fact, the time taken by the petitioners by virtue of the Court proceedings shall be excluded and thus the period from 4.11.1988 i.e. the day when the stay was granted by this Court till 27.11.1997 i.e. the day when the objections were filed by the petitioners is to be excluded and the period of one year for publication of Draft Declaration under Section 6 of the Act starts only from 27.11.1997. It is not in dispute that the Draft Declaration was published on 14.3.1999. Hence, this Court has no hesitation to come to the conclusion that the Draft Declaration is not within the time as provided under the statute and is hereby quashed.

Now, in view of the quashing of the Draft Declaration published on 14.3.1999, the question of passing an Award will not arise. When

there is no scope of passing an award, the Notification dated 30.10.1985 itself loses its validity.

In the result, the writ petition is allowed setting aside the Notification dated 30.10.1985 issued by the 1st respondent. However, it is made clear that if the respondents so chose to acquire the land in question they may do so only in accordance with law after issuing a fresh Notification under Section 4(1) of the Act. No costs.

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19.07.2006

bcj